

HOUSE BILL REPORT

ESHB 2194

As Passed House:

March 11, 2005

Title: An act relating to public participation requirements of the growth management act.

Brief Description: Changing public participation requirements of the growth management act.

Sponsors: By House Committee on Local Government (originally sponsored by Representatives Springer and Simpson).

Brief History:

Committee Activity:

Local Government: 2/28/05, 3/2/05 [DPS].

Floor Activity:

Passed House: 3/11/05, 91-2.

Brief Summary of Engrossed Substitute Bill

- Cities and counties of a certain size are required to commence the public notification process with respect to comprehensive plan review and evaluation at least one year in advance of the statutorily required completion date.
- Provides that the one year notice requirement is prospective only, and not retroactive, and that failure to exactly comply with the public noticing requirements will not render the plan or regulations invalid.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Simpson, Chair; Clibborn, Vice Chair; Schindler, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; B. Sullivan, Takko and Woods.

Staff: CeCe Clynch (786-7168).

Background:

Enacted in 1990, and 1991, the Growth Management Act (GMA) establishes a comprehensive land use planning framework for county and city governments in Washington. The GMA includes several broad goals which are to guide local governments in the adoption of

comprehensive plans and development regulations. The GMA also includes public participation and notice provisions and sets various completion dates.

The GMA jurisdictions must adopt internally consistent comprehensive land use plans (comprehensive plans), which are generalized, coordinated land use policy statements of the governing body. Development regulations must be consistent with and implement the comprehensive plan. The GMA sets forth the following schedule for counties and cities to take action to review and, if needed, revise their comprehensive plans and development regulations:

- On or before December 1, *2004*, and every seven years thereafter, for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the cities within those counties;
- On or before December 1, *2005*, and every seven years thereafter, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties and the cities within those counties;
- On or before December 1, *2006*, and every seven years thereafter, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and the cities within those counties; and
- On or before December 1, *2007*, and every seven years thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

The GMA requires notice that is reasonably calculated to provide notice. Various types of notice are cited as "reasonable notice provisions," such as posting property for site-specific proposals, publishing notice in a newspaper of general circulation, and notifying interest groups with a known interest in a certain type of proposal. There are no time requirements specific to these notice provisions in statute. The law, as well as the regulations adopted by the Department of Community, Trade, and Economic Development, requires that each county and city establish procedures "for early and continuous public participation." Failure to exactly comply with established procedures does not render the plan or the regulations invalid if the spirit of the procedures is observed.

Summary of Engrossed Substitute Bill:

In counties with a population greater than two hundred thousand and cities with a population greater than five thousand, the public notification process with respect to review and evaluation of comprehensive plans and development regulations must begin no later than one year before the completion date specified for that particular county or city. Those cities and counties required to complete review and evaluation on or before December 1, *2005*, are required to commence the notice process "as soon as reasonably possible" since they cannot possibly comply with a one year notice requirement if this bill becomes law.

The statute which encourages early and continuous public participation is also amended to include the same one year notice requirement, with a similar exception made for those counties required to complete review and evaluation by December 1, 2005.

It is explicitly provided that this one year notice provision is prospective only, and not retroactive, and that failure to exactly comply with the public noticing requirements will not render the plan or regulations invalid.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: This bill addresses a concern expressed by people who felt that they weren't given an opportunity to be involved in the process as much as they would have liked by providing for a one year notice period.

(With concerns) The intent behind the bill is not entirely clear. It is not bad if the purpose is just to give everyone better notice but many cities would not be ready to go one year out from the completion date and consequently would not be able to say much. It is assumed that the 'procedural not substantive' language means that someone may appeal if the one year notice is not given but cannot appeal on grounds that the notice which was given did not dot all "i's" and cross all "t's." Most counties currently take about a year to go through the process and participation has been very full so the one year requirement would put into statute what is already occurring in most counties.

Testimony Against: None.

Persons Testifying: (In support) Representative Simpson.

(With concerns) Paul Parker, Washington State Association of Counties; and Dave Williams, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: None.